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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,179	07/03/2003	Demitri Anastassopoulos	MS1-1561US	4899
22801	7590	11/22/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BARBEE, MANUEL L	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,179

Applicant(s)

ANASTASSOPOULOS ET AL.

Examiner

Manuel L. Barbee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because Figure 3 uses the number "320" to designate two steps. The "Establish/Create Comm. Channel with Server Computer" step should be labeled --325--, as shown in the specification on page 12, line 18. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 4, 24 and 41 are objected to because of the following informalities:

In claim 4, line 2 of the claim, after "comprises", insert --receiving--.

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In claim 24, lines 4 and 5 of the claim, "the remote test tool" lacks antecedent basis.

In claim 41, line 1 of the claim, delete "test", and insert --tests--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32, 34, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Conan et al. (US Patent Application Publication 2001/0012986).

With regard to a memory and a processor, as shown in claims 32 and 37, Conan et al. teach a server and a client process that each store files for configuration and executing tests (Figs. 1-3, pars. 22, 23). With regard to instructions stored in memory to access a test tool on a server computer, as shown in claim 32 and a memory to store instructions to access a remote client, as shown in claims 37, Conan et al. teach a sever with a test bucket and a test execution script and a client process with a listener process and a test script file and a test execution process (Figs. 2, 3, pars 33-45). With regard to a virtual channel for communication, as shown in claims 34 and 38, Conan et al. teach using a socket for communication between the server and the client (pars. 40, 41).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 6-8, 12-15, 19, 20, 23, 33, 40, 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews (US Patent Application Publication 2003/0098879).

With regard to establishing a session with a server computer and receiving a set of instructions and data directed to providing testing from the server computer, as shown in claim 1, Conan et al. teach submitting test cases from a server computer to a client process for execution (pars. 30, 38). With regard to creating a virtual channel and transferring testing information through the virtual channel, as shown in claim 1, Conan et al. teach using sockets for communication between the server and the client process and transmitting test results back to the server from the client (pars 32, 40, 41). Conan et al. do not teach graphics testing, as shown in claim 1. Mathews teaches distributed graphical user interface (GUI) testing (Abstract, pars. 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include GUI testing, as taught by Mathews, because then the interface an user uses to operate the software would have been verified to operate correctly (Mathews, par. 2).

With regard to receiving a request from the server computer, as shown in claim 2, Conan et al. teach that the server submits the test case to the client process (par. 30). With regard to forming a virtual channel through a wide area network or the Internet, as shown in claims 6 and 7, Conan et al. teach using web communication and TCP/IP for the sockets (pars. 3, 24). With regard to registering a unique virtual identifier with the server computer, as shown in claim 8, Conan et al. teach registering the client resources with the server (par. 45). With regard to a personal computer, as shown in claim 12, Conan et al. teach a computer (pars. 22, 23).

Conan et al. do not teach receiving a request to the server to establish the session, as shown in claim 3. Mathews teaches submitting requests to the server from a client computer (par. 32, Figure 3, step 100). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to submitting a request to the server, as taught by Mathews, because then an user at a client would have been able to verify the proper operation of software at the client.

With regard to establishing a session with a remote client, storing a set of instructions and data in a registry and sending the set of instructions and data to a remote client computer, as shown in claim 13, Conan et al. teach submitting test cases stored at a server computer to a client process for execution (pars. 30, 38). With regard to creating a virtual channel, as shown in claim 13, Conan et al. teach using sockets for communication between the server and the client process and transmitting test results back to the server from the client (pars 32, 40, 41). Conan et al. do not teach graphics

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testing, as shown in claim 1. Mathews teaches distributed graphical user interface (GUI) testing (Abstract, pars. 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include GUI testing, as taught by Mathews, because then the interface an user uses to operate the software would have been verified to operate correctly (Mathews, par. 2).

With regard to sending a request to a remote client, as shown in claim 15, Conan et al. teach that the server submits the test case to the client process (par. 30). With regard to forming a virtual channel through a wide area network or the Internet, as shown in claims 19 and 20, Conan et al. teach using web communication and TCP/IP for the sockets (pars. 3, 24). With regard to a server computer, as shown in claim 23, Conan et al. teach a server computer (pars. 22, 23).

Conan et al. do not teach receiving a request from the remote client, as shown in claim 14. Mathews teaches submitting requests to the server from a client computer (par. 32, Figure 3, step 100). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to submitting a request to the server, as taught by Mathews, because then an user at a client would have been able to verify the proper operation of software at the client.

Conan et al. teach all the limitations of claim 32 upon which claim 33 depends and claim 37 upon which claim 40 depends. Conan et al. do not teach graphics testing, as shown in claims 33 and 40. Mathews teaches distributed graphical user interface

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(GUI) testing (Abstract, pars. 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include GUI testing, as taught by Mathews, because then the interface an user uses to operate the software would have been verified to operate correctly (Mathews, par. 2).

With regard to a client computer and a server to identify software to provide testing through a communication channel, as shown in claim 47, Conan et al. teach a server computer and a client process and submitting test scripts generated from tests stored on the server to the client computer through a socket (pars. 22, 23, 30, 38, 40). Conan et al. do not teach graphics testing, as shown in claim 47. Mathews teaches distributed graphical user interface (GUI) testing (Abstract, pars. 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include GUI testing, as taught by Mathews, because then the interface an user uses to operate the software would have been verified to operate correctly (Mathews, par. 2). With regard to a virtual channel, as shown in claim 48, Conan teach using sockets for communication between the server and the client process and transmitting test results back to the server from the client (pars 32, 40, 41).

7. Claims 4, 5, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews as applied to claims 1 and 13 above, and further in view of Perugini et al. (US Patent No. 5,896,494).

Conan et al. and Mathews teach all the limitations of claim 1 upon which claims 4 and 5 depend and claim 13 upon which claims 16 and 17 depend. Further, with regard to a test tool that is a series of tests that are part of a test application program resident on the server computer, as shown in claims 4, 5, 16 and 17, Conan et al. teach generating a test script based on test cases selected from a test bucket on the server (par. 30). Conan et al. and Mathews do not teach that the instructions comprise a dynamic link library (DLL), as shown in claims 4 and 16. Perugini et al. teach diagnostic modules that are DLL's (col. 9, line 43 - col. 10, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing combination, as taught by Conan et al. and Mathews, to include DLL's for testing modules, as taught by Perugini et al., because then computers using a Windows operating system would have been tested.

8. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews as applied to claims 1 and 13 above, and further in view of Packer (US Patent No. 5,978,575).

Conan et al. and Mathews teach all the limitations of claim 1 upon which claim 9 depends and claim 13 upon which claim 21 depends. Further, with regard to executing tests in a list of tests prior to succeeding tests in the list of tests, as shown in claim 9, Conan et al. teach submitting a test script to be executed by the client computer (pars. 30, 43). Conan et al. and Mathews do not teach timing each of the tests and storing the time, as shown in claim 9, or timing how long information related to graphics testing is sent, as shown in claim 21. Packer teaches timing the execution of a test (Abstract). It

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would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing combination, as taught by Conan et al. and Mathews, to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

9. Claims 10, 11, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews as applied to claims 1 and 13 above, and further in view of Klein et al. (US Patent No. 6,526,371).

Conan et al. and Mathews teach all the limitations of claim 1 upon which claims 10 and 11 depend and claim 13 upon which claim 22 depends. Conan et al. and Mathews do not teach timing the establishing of a session, as shown in claims 10 and 22, or timing the logging off, as shown in claim 11. Klein teaches timing the response time when a transaction is initiated (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing combination, as taught by Conan et al. and Mathews, to include measuring response time, as taught by Klein et al., because then performance of various applications would have been measured (Klein et al., col. 1, lines 33-49).

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews and Perugini et al. as applied to claim 17 above, and further in view of Packer.

Conan et al., Mathews and Perugini et al. teach all the limitations of claim 17 upon which claim 18 depends. Conan et al., Mathews and Perugini et al. do not teach timing each of the tests, as shown in claim 18. Packer teaches timing the execution of a

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test (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing combination, as taught by Conan et al., Mathews and Perugini et al., to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews in view of Packer.

With regard to means for receiving graphics tests from a test tool resident on a server computer and means for facilitating receipt of the graphics tests on the computer, as shown in claim 24, Mathews teaches distributing GUI tests from a server to client computers over a network (Abstract, pars. 14-16). Mathews does not teach means for timing the graphics tests, as shown in claim 24. Packer teaches timing the execution of a test (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify GUI testing, as taught by Mathews, to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

12. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews in view of Packer as applied to claim 24 above, and further in view of Perugini et al.

Mathews and Packer teach all the limitations of claim 24 upon which claim 25 depends. Mathews and Packer do not teach a dynamic link library, as shown in claim 25. Perugini et al. teach diagnostic modules that are DLL's (col. 9, line 43 - col. 10, line

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7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify GUI testing combination, as taught by Mathews and Packer, to include DLL's for testing modules, as taught by Perugini et al., because then computers using a Windows operating system would have been tested.

13. Claims 26 and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Mathews in view of Packer as applied to claim 24 above, and further in view of Conan et al.

Mathews and Packer teach all the limitations of claim 24 upon which claims 26 and 27 depend. Mathews and Packer do not teach establishing a virtual channel through a wide area network or the Internet, as shown in claims 26 and 27. Conan et al. teach using web communication and TCP/IP for the sockets (pars. 3, 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify GUI testing combination, as taught by Mathews and Packer, to include sockets through the web, as taught by Conan et al., because the sockets would have facilitated communication between the server and the client.

14. Claims 28, 30, 31, 36 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Packer.

With regard to means for accessing a remote client computer and storing instructions and data used by a test tool to provide testing to the remote client computer, as shown in claim 28, Conan et al. teach submitting test cases stored at a server computer to a client process for execution (pars. 30, 38). With regard to means for identifying particular instructions and data, as shown in claim 28, Conan et al. teach

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using a test request to select test cases to be used to generate the test script (par. 28). With regard to means for setting up a virtual channel, as shown in claim 28, Conan et al. teach setting up socket connections (pars. 40, 41). Conan et al. do not teach means for timing the tests, as shown in claim 28. Packer teaches timing the execution of a test (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

Conan et al. teach all the limitations of claim 32 upon which claim 36 depends and claim 37 upon which claim 41 depends. Conan et al. do not teach means for timing the tests, as shown in claims 36 and 41. Conan et al. do not teach means for timing the tests, as shown in claim 28. Packer teaches timing the execution of a test (Abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

With regard to contacting a server to send instructions and data, as shown in claim 42, Conan et al. teach submitting test cases stored at a server computer to a client process for execution (pars. 30, 38). With regard to setting up a virtual channel, as shown in claim 42, Conan et al. teach setting up socket connections (pars. 40, 41). Conan et al. do not teach determining the beginning and ending of individual tests, as shown in claim 42, or timing the tests and storing the time, as shown in claims 43 and

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44. Packer teaches timing the execution of a test and storing the times (Abstract, col. 5, line 23 - col. 6, line 3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include timing tests, as taught by Packer, because then the test would have given an accurate reflection of computer performance (Packer, col. 1, lines 36-55).

15. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Packer as applied to claim 28 above, and further in view of Perugini et al.

Conan et al. and Packer teach all the limitations of claim 28 upon which claim 29 depends. Conan et al. and Packer do not teach a dynamic link library, as shown in claim 29. Perugini et al. teach diagnostic modules that are DLL's (col. 9, line 43 - col. 10, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing combination, as taught by Conan et al. and Packer, to include DLL's for testing modules, as taught by Perugini et al., because then computers using a Windows operating system would have been tested.

16. Claims 35 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Perugini et al.

Conan et al. teach all the limitations of claim 32 upon which claim 35 depends and claim 37 upon which claim 39 depends. Conan et al. does not teach a dynamic link library, as shown in claims 35 and 39. Perugini et al. teach diagnostic modules that are DLL's (col. 9, line 43 - col. 10, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught

by Conan et al., to include DLL's for testing modules, as taught by Perugini et al., because then computers using a Windows operating system would have been tested.

17. Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conan et al. in view of Mathews and Perugini et al.

With regard to a processor configured to initiate a session with a remote client computing device, as shown in claim 45, Conan et al. teach a server that submits tests to a client (pars. 30, 38). With regard to an interface and a virtual channel between the computing device and the remote client, as shown in claims 45 and 46, Conan et al. teach using sockets for communication (pars. 40, 41). Conan et al. do not teach dynamic link libraries or graphics testing, as shown in claim 45.

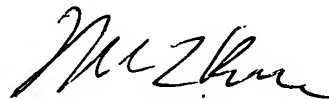
Perugini et al. teach diagnostic modules that are DLL's (col. 9, line 43 - col. 10, line 7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include DLL's for testing modules, as taught by Perugini et al., because then computers using a Windows operating system would have been tested. Mathews teaches distributed graphical user interface (GUI) testing (Abstract, pars. 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify computer testing, as taught by Conan et al., to include GUI testing, as taught by Mathews, because then the interface an user uses to operate the software would have been verified to operate correctly (Mathews, par. 2).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Manuel L. Barbee
Examiner
Art Unit 2857

mlb
November 15, 2005